IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 939 (M/S) OF 2006
(Stay Application No. 9048 of 2006)

Smt. Kanta W/o Sri Hans Raj Sachdeva,
R/o Purvavarti Ganeshpur, Station Road,
Roorkee District Hardwar. .....Petitioner

Versus

1. District Judge, District Hardwar.
2. Indian Oil Corporation Ltd. Registered Officer G-9 Ali Awar, Jung Marg Bandra, Mumbai East, through its Divisional Retail Sales Manager, Indian Oil Corporation Ltd, Dehradun.
3. Municipal Board, Roorkee, through it's Executive Officer, District Hardwar.
4. Executive Officer, Municipal Board Roorkee, District Hardwar.
5. Ist F.T.C./A.D.J., Roorkee, District Hardwar

..... Respondents

21.07.2006

Sri Sharad Sharma, Counsel for the petitioner.
Standing Counsel for the respondent no.1 & 5.
Sri Praesh Tripathi, Counsel for the respondent no.2.
Mohd. Sakhatar, Advocate brief holder of Sri Parikshit Saini, counsel for the respondent no. 3 & 4.

Hon'ble Rajesh Tandon, J.

Heard Sri Sharad Sharma, Counsel for the petitioner, Standing Counsel for the respondent no. 1 & 5, Sri Paresh Tripathi, Counsel for the respondent no.2 and Sri Parikshit Saini, counsel for the respondent no. 3 & 4.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 06.07.2006 passed by respondent no.1 in T.A. No.198/2006 annexed as annexure No.5 to the writ petition.

Briefly stated, the petitioner has filed suit no.51/2003 for permanent injunction restraining the defendant from interfering in possession of the property. The matter has earlier come before this Court and vide order dated 25.04.2006, directions were made to the trial court to decide suit No.51/2003 within a period of six months as far as possible and both the parties were directed to maintain

status quo and the directions was made to Civil Judge (S.D.), Roorkee who shall decide the suit between the parties.

The petitioner has moved the application under Section 24 of the Code of Civil Procedure on the ground that the court of Civil Judge(S.D.), Roorkee is vacant for the last three years as such the suit itself may be transferred to any appropriate Court. On the said application, District Judge, Hardwar passed the order to transfer the aforesaid suit to Ist F.T.C., Roorkee vide order dated 16.05.2006.

During the proceedings before Ist F.T.C., Roorkee, the respondent no.3 & 4 have moved a transfer application no.198/2006 which was taken up before the District Judge. The District Judge, Hardwar has transferred the aforesaid suit to the Court of Civil Judge (S.D.) vide order dated 06.07.2006 which was already lying vacant for the last three years.

Parties have agreed that since the Court of the Civil Judge (S.D.), Roorkee is lying vacant at present, the suit may be transferred to the Court of Civil Judge (S.D.), Hardwar for deciding the same.

In view of the above, the suit is directed to be transferred to the Court of Civil Judge (S.D.), Hardwar for disposal.

Subject to above, writ petition is disposed of. No order as to costs.

21.07.2006 **(Rajesh Tandon, J.)**

Jain